In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 417

ANTHONY GEORGIOU, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals (Pet. 15–20) is reported at 333 F. 2d 440.

JURISDICTION

The judgment of the court of appeals was entered on June 22, 1964. A petition for rehearing was denied on July 24, 1964. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the trial court unduly restricted defense counsel from developing the defense of entrapment in his cross-examination of government witnesses.

743-908—64——1

STATEMENT

In an indictment returned in the Northern District of Illinois, petitioner was charged with possession of counterfeit plates designed for the printing of dollar bills (A. 4). Following a jury verdict of guilty, the court sentenced him to imprisonment for six years (A. 3).

The sufficiency of the evidence is not challenged and may be summarized briefly as follows:

On November 8, 1962, petitioner met Thomas Moseley and expressed surprise at his bus driver's uniform. They conversed about Moseley's salary and about other ways to acquire money. Moseley mentioned a notice from his employer cautioning against counterfeit dollar bills. Petitioner inquired whether Moseley wanted to purchase a set of counterfeit plates. When Moseley expressed an interest on behalf of an out-of-town buyer, petitioner replied that he might be able to obtain plates for $5,000 (A. 80–81, 111–113).

Four days later, Moseley telephoned the Secret Service that he had information regarding counterfeit plates. He spoke with agent Bolden and then with the agent in charge, Burke, who instructed him to telephone petitioner (A. 81–84, 116–120). At his next meeting with petitioner, Moseley said he had a party anxious to secure the plates who would pay $7,000. They talked about delivery and agreed to split the $2,000 difference. Petitioner asked if Moseley could also use counterfeit currency (A. 84–85). In the latter part of November, agent Motto made arrangements with Moseley to be introduced to petitioner as a buyer from St. Louis and instructed him to continue

his efforts to obtain the plates (A. 39–40, 85, 121–122).

On January 3, Moseley advised the agents that petitioner was ready to deliver a back plate as a sample. He secured this plate later in the day (A. 40–41, 50–51, 89–94, 123). The next day, Moseley met petitioner and introduced agent Motto as an out-of-town buyer. After talking about the sale of the plates, petitioner left to obtain them. When he returned to his used car lot with the plates, he was arrested (A. 31–36, 41–45, 54–57, 95–104).

ARGUMENT

In his cross-examination of Moseley and Agents Strong and Motto, petitioner was not permitted to pose questions about the conversation between Moseley and the agents framed in terms which characterized the conversations as attempts to "induce," "persuade," or "prevail" upon petitioner to transfer the counterfeit plates (A. 60–65, 120–121). Petitioner claims that this frustrated his efforts to prove entrapment. The court, however, permitted petitioner to cross-examine these witnesses fully as to the content of the actual conversations and did not otherwise restrict petitioner in asking questions related to the issue of entrapment. The court was performing its proper function when it controlled the form of the questions so as to bring the facts before the jury, rather than counsel's characterization of the events.

[1] There is actually no evidence in this case that the criminal design originated with the government. The agents had never before used Moseley (A. 39), and the criminal plan was hatched on November 8 before any government official entered the case.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for certiorari should be denied.

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